IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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WRIT PETITION NOs: 8387 & 8412 of 2003

WRIT PETITION NO: 8387 OF 2003

Between:

M/s.Pawan Industries, rep. By its Partner,

Chandrakanath Gujarathi son of Rukmaji
2-5-124, Gujari Galli Bhainsa, Adilabad Dist

..... PETITIONER

AND

1 Principal Secretary
The Govt of A.P Agricultural and Cooperation (MKTG.II) Dept
Secretariat, Hyderabad
2 The Director of Marketing
Govt of A.P Hyderabad
3 The Special Grade Secretary
Agricultural Market Committe Bhainsa, Adilabad Dist

.....RESPONDENTS

WRIT PETITION NO: 8412 of 2003

Between:

M/s.Shiva Oil Industries, rep. by its partner,

Shri C.Marothi son of C.Narayan

2-1-128, Gujari Galli, Bhainsa Adilabad Dist

..... PETITIONER

AND

1 Principal Secretary
The Government of A.P Agricultural and Cooperation (MKTG.II) Dept
Secretariat, Hyderabad
2 The Director of Marketing
Govt of A.P Hyderabad
3 The Special Grade Secretary
Agricultural Market Committe Bhainsa, Adilabad Dist

.....RESPONDENTS

Petitions under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of mandamus or any other appropriate writ or writs orders or direction declaring the action of the respondent No.3 in levying the market fees on the consignment of cotton seeds out side the state of Andhra Pradesh as illegal and violative of Articles 14, 19(1) (g) 301 and 304 (b) and also violative of section 12-A of the A.P (Agricultural Produce & Live Stock) Markets Act and Consequently direct the respondents herein not to impose market fees on the consignment sale of cotton in areas outside the market area and be pleased

Counsel for the Petitioner: MR.B.VIJAYSEN REDDY

Counsel for the Respondent Nos.1 &2 : GP FOR AGRICULTURE

Counsel for the Respondent No.3: MRS.NANDA R. RAO

The Court made the following :

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION Nos. 8387 & 8412 of 2003

COMMON ORDER:

Since the point that falls for consideration in both the writ petitions is one and the same, they are heard together and disposed of by this common order.

The Petitioners, who are running cotton Guinning and Pressing units at Bhainsa, Adilabad District, for processing cotton kapas into lint and cotton seeds, seek to challenge the action of the 3rd respondent-Agricultural Market Committee in levying market fees on the consignment of cotton seed out side the State of Andhra Pradesh on the ground that the same is contrary to the provisions of the A.P.(Agricultural Produce & Live stock) Markets Act, 1966 (for brevity 'the Act') and for a consequent direction not to impose market fees on the consignment sale of cotton seed in areas outside the market area.

While admitting the writ petitions, this Court directed the respondents not to collect the market fees from the petitioners for the sale of consignments. However, the petitioners were directed to intimate the quantity of the consignment being transported to the other States, and on such intimation alone, the petitioners were permitted to take the consignment of goods outside the State of Andhra Pradesh. The 1st respondent filed Contempt Case Nos.701 and 708 of 2004 alleging that the petitioners have violated the interim orders and failed to intimate the quantity of the sale of consignments being transported to the other States, and taken the goods outside the State of Andhra Pradesh, for which they are liable to be proceeded with under Sections 10 to 12 of the Contempt of Courts Act. Apart from that, applications are also filed seeking to vacate the interim orders granted in the writ petitions contending that the petitioners are carrying on the business in the notified market area of the Agricultural Market Committee, Bhainsa, and if the petitioners purchase cotton kapas and after subjecting them to guinning, sell the cotton seeds, which is a 'notified commodity' under the Act, as per the conditions of licence granted to the petitioners, when they sell or purchase the notified Agricultural Produce or Livestock they shall collect the market fees from the purchaser and remit the same to the Market Committee. In the event of failure on the part of the petitioners in doing so, petitioners are liable to pay the market fee on the sale of cotton seeds and even on the consignment sales, because the petitioners have been issuing export permits for cotton seeds sold by them after weighment at their premises to the unknown persons who are doing business in other States and who could not be identified by the Market Committee. In view of the same,

it is contended that the petitioners are under an obligation to pay the market fee on such sales.

When the vacate stay petitions are taken up for hearing, the learned counsel for the writ petitioners submitted that the petitioners have already submitted all the relevant documents to the Market Committee under an acknowledgment which contain, detailed particulars relating to the quantity and the purchasers of the cotton seed out of the State of Andhra Pradesh to enable the Market Committee to collect the market fees, if any payable. He also filed xerox copies of the documents said to have been submitted to the Market Committee.

On the other hand, the learned standing Counsel for the Market Committee submits that still the petitioners are not furnishing the full details of the purchasers who can be identified and in view of the same, they have violated the interim order and, therefore, the petitioners are not entitled to any relief from this Court.

Having regard to the fact that the petitioners have already furnished the details of quantity of sale and consignment being transported from their respective premises, including that of the particulars of the purchasers, the respondents-Market Committee is at liberty to make an enquiry and can pass appropriate orders including that of assessment of market fee and by specifying the persons who are liable to pay the market fee. Until the assessment is done in respect of the cotton seed, which were already sold to the licencees, without prior permission of the market committee, the petitioners shall not move the cotton seeds by way of consignment or otherwise outside the market area.

The writ petitions are disposed of accordingly. No costs.

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kvr 16th July, 2004

To

1 Principal Secretary
The Government of A.P Agricultural and Cooperation (MKTG.II) Dept
Secretariat, Hyderabad
2 The Director of Marketing
Govt of A.P Hyderabad
3 The Special Grade Secretary
Agricultural Market Committe Bhainsa, Adilabad Dist

4 Two C.Cs. to G.P. for Agriculture, High Court Buildings,

High Court of A.P., Hyderabad (OUT)

5 Two C.D. copies.